



REGULAR MEETING
PUBLIC EMPLOYEES' RETIREMENT BOARD

February 14, 2008

The regular meeting was called to order by President Jay Klawon at 8:30 a.m. Thursday, February 14, 2008. Roll call was taken with six Board members present, Mr. John Nielsen was excused. Board members and staff present were:

Jay Klawon, President
John Paull, Vice President
Robert Griffith, Member
Troy McGee, Member
Ray Peck, Member
Terry Smith, Member
Roxanne Minnehan, Executive Director
Melanie Symons, Legal Council
Scott Miller, Legal Council
Ursula Hatfield, Executive Assistant

OPEN MEETING

Nancy Quirino, Great West Retirement Services; Ross Jensen, Great West Retirement Services; Tom Schneider, MPEA; Pam Bucy, MCOP; Rick Ryan, Scott Moore, Jack Tretheway, Chad Nicholson and Ed Cleary members of the Montana State Firemen's Association; and MPERA staff: Kim Flatow, Member Services Bureau Chief; Barb Quinn, Fiscal Services Bureau Chief; Diann Levandowski, Assistant Fiscal Services Bureau Chief; Kathy Samson, DC/Education Services Bureau Chief, joined the meeting

MINUTES OF OPEN MEETING

The minutes of the open meeting of December 13, 2007 and January 10, 2008 were presented. Mr. John Paull stated some changes needed made on the January 10, 2008 Board of Investment minutes. Changes were noted and given to Ursula Hatfield to make corrections.

Motion: Mr. Robert Griffith moved to approve the minutes of the December 13, 2007 PERB regular Open Meeting

Second: Mr. Terry Smith

Vote: 6/0

Motion: Mr. Robert Griffith moved to approve the minutes of the January 10, 2008 PERB Regular Open Meeting with corrections to the Board of Investment section.

Seconded: Mr. John Paull

Vote: 6/0

The minutes of the Legislative Committee meeting of February 1, 2008 were presented.

Motion: Mr. Troy McGee moved to approve the minutes of the February 1, 2008 Legislative Committee Meeting

Second: Mr. Terry Smith

Vote: 3/0

Public Comment: Mr. Jay Klawon asked for public comment on any subject of interest to the Board not on the agenda, none was given.

EXECUTIVE DIRECTOR'S REPORT – Roxanne Minnehan, Executive Director

Adoption of Actuarial Assumptions Scott Miller

Proposed Policies and Rule Amendments The actuary makes recommendations to the Board for the assumptions and methods to be used in the valuation process after an experience study. Experience studies are approximately every five to six years. Ice Miller originally suggested that MPERA adopt into rule all the option factors. Because this information consists of numerous tables, MPERA talked to Ice Miller about drafting the rule referencing these policies. The assumptions, methods, and options in these policies are based on the 2003 Experience Study. The information needed to determine those option factors are the rate of interest of the discount and present value, and the mortality table.

Motion: Mr. Robert Griffith moved that the Board adopt the proposed Actuarial Valuation Assumptions and Methods policy, Policy no. BOARD Admin 09, as proposed by staff.

Second: Mr. Troy McGee

No public comment.

Vote: 6/0

Motion: Mr. Troy McGee moved that the Board adopt the proposed Actuarial Equivalence Option Factor Determination, Policy no. BOARD Admin 10, as proposed by staff.

Second: John Paull

No public comment.

Vote: 6/0

Motion: Mr. Troy McGee moved that the Board approve the proposed amendment to Montana Administrative Rule 2-43-304, and direct staff to complete the adoption of this rule through the administrative rulemaking process.

Second: Mr. Terry Smith

No public comment.

Vote: 6/0

Administrative Rule Rewrite

The administrative rules are part of the package for the IRS review for our qualification status. Ms. Kim Flatow and Ms. Melanie Symons have reviewed each rule and made proposed changes. Ms. Flatow and Ms. Symons are in the process of reviewing the proposed rules changes with the management team. The remainder of the rules will be ready for the March meeting. Mr. Smith brought up a concern with rule 2-43-405, Membership. "An eligible employee becomes a member of a retirement system once required retirement contributions are paid to the appropriate system." Ms. Symons explained that our rule doesn't match the statute. The statute states the employee is a member on the first date paid into the system, not the date of hire. MPERA is amending the rule to match the statute. Mr. Paull brought up that a person could possibly miss GABA if, for example, a person was hired the middle of December, wasn't reported until January. Ms. Kathy Samson clarified that membership starts when money is first being put in the system. The employee doesn't put money in on the first day, but on the first pay date. Mr. Griffith asked if the contributions go back to the date of hire. Ms. Flatow explained that the service credits are earned on when paid basis not when earned basis. Mr. Paull stated that 19-13-301 MCA, "a full paid firefighter becomes an active member of the retirement system on the first day of the firefighter's service with an employer." Ms. Flatow said to look up the definition of "service." "Service" as defined in 19-2-303(40) means "employment of an employee in a position covered by a retirement system."

Motion: Mr. Terry Smith moved to table approval of the proposed revised administrative rules 2.43.101 through 2.43.418 as drafted.

Second: Mr. Ray Peck

Public comment: Mr. Tom Schneider and Mr. Jack Tretheway didn't realize this was an issue. Mr. Tretheway stated he thought this was started on the date of hire, since you are drawing pay on the first day. He was unaware that this was not how it worked. Ms. Nancy Quirino stated that the formula would have to be changed if this rule and/or statute are changed.

Vote: 6/0

Informal Reconsideration – VFCA, Request for Acceptance of Late Annual Certificates, Columbus VFD Diann Levandowski

At the January Board meeting the Board determined that MPERA did not receive adequate support documentation from the Columbus VFD. The request the Board to accept an Annual Certificates filed on December 25, 2005 for the fiscal years 1995, 1996, 1997 and 1998. The Annual Certificates are due by September 1 of each year following fiscal year end. The Annual Certificates certify that the members listed were members for the entire fiscal year period (July 1 – June 30) and received a minimum of 30 hours of instruction during that fiscal year. This is the second filing for these Annual Certificates. Ms. Levandowski has been working with the Assistant fire chief. Ms. Levandowski recommends six years not the eleven years originally requested per the documentation provided.

Motion: Mr. Robert Griffith moved to uphold staff recommendation to grant six years of credit to members receiving of the minimum 30 hours of training for FY 1995-1998.

Second: John Paul

No public comment.

Vote: 6/0

Phased-in-Market Progression for Certain Non-Union Employees Roxanne Minnehan

The Board previously approved an amendment to the FY 2008 budget for market increases for all non-union employees. Four employees require held back due to the large increases to bring them up to market. Ms. Minnehan is proposing a plan for progressive increase for specific. Ms. Minnehan recommends a 12% increase, retroactive to October 1, 2007 similar to all other employees. Then progressive increases up to 10% in July 2008 and January 2009, where necessary. Ms. Minnehan further stated that increasing the fiscal services bureau chief by 15%, initially, brings that employee up to 85% of market. Ms. Minnehan reported more than one option to the Board to bring these employees up to market. The question was asked to define “market”. Ms. Minnehan explained that a market survey from Missouri Retirement System contracts for all states national survey for all state retirement systems. This was then reduced by 15%.

Motion: Mr. Terry Smith moved to approve option 5: phase in market progressions for certain non-union employees. Option 5 is the progressive market increases immediately, retroactive to October 2007. The first cap increase at 12% for three of the four positions. Capping the Fiscal Bureau Chief at 15%, will bring the salary for this position to 85% of market, all union positions receive a minimum of 85% of market after six months. Cap remaining increases at 10%, July 2008, for Fiscal Bureau Chief only. The final increase will be January 2008.

Second: John Paull

No public comment.

Vote: 6/0

Schedule Board Meeting Dates Jay Klawon

Motion: Mr. John Paull moved to approve scheduling the next quarter Board Meetings as follows:

Thursday, April 10, 2008

Thursday, May 8, 2008

Thursday, June 12, 2008

Second: Terry Smith

No public comment.

Vote: 6/0

Board Education – Robert’s Rules of Order Scott Miller

Mr. Miller highlighted areas of particular interest on Roberts Rules of Order for the Board. Main motions are a formal proposal that recommends a course of action one at a time. A motion must be placed prior to being discussed. A motion should contain: 1) who - the maker of the motion 2) what - the action to be taken and 3) when - the timeframe for action taken. Once the motion is made and seconded, action is taken before another motion is considered. A secondary motion is a way to change or dispose of motions. Amending a motion modifies a motion by adding or striking words. This requires a second; it is debatable and must pass with majority vote. To postpone indefinitely a motion, defers a vote to a specific time. A postpone indefinitely is to decline to take a position and the motion dies. To make a motion the language “I move that” or “I move to” should be used. A motion must be seconded by another member. The chair restates the motion, “It is moved and seconded that... Are there any questions?” The person who makes the motion has the first right to speak to the motion. After the debate, the chair puts the motion to a vote. After the vote is tallied, the chair rules on which side won the vote. To reconsider a motion, a member of the prevailing side can change their position or view. The motion to reconsider cannot be applied to a vote on a motion that may be renewed within a reasonable time, or when practically the same result may be attained. Motions can only be reconsidered during that meeting. Once the meeting has been adjourned you are unable to reconsider a motion. At this time you can rescind, repeal or annul a motion, provided notice of the motion has been given at the previous meeting or in the call of this meeting. At this time previous motions can be expunged. Minutes must include date and time of meeting, list of attendance, brief description of discussion, recording of all motions and time of adjournment. However, since PERB is a public agency, minutes should be more detailed. The minutes are published on the MPERA web site, therefore action items need be described in detail.

Evolution of 457/DCRP Investment Options Kathy Samson

At the January meeting the Board started to discuss the consolidation of the Investment Options in the Deferred Compensation (457) Plan and the PERS-Defined Contribution Retirement Plan

(DCRP). Because the item was not on the agenda, it could not be discussed. This is the first segment for a series of discussions on the topic, which will be education on the history of the investment option selections for the two plans for information and discussion purposes. Ms. Kathy Samson stated in October 1999, the Defined Contribution Retirement Plan, was required, under statute to go through the procurement process. At that time the Board could not go through a consultant or to look at the investment options within the 457 plans and chose for themselves. They came to the Board through the competitive bidding process. In October 1999, the Board met with the Employee Investment Advisory Council (EIAC), and with our consultant, Mercer and Associates. The Board established a number of investment options and categories for the Defined Contribution Retirement Plan, so these could be included in the request for proposal. This included a mix of index funds, passively managed funds and actively managed funds. The Board received proposals and selected the investment options from these proposals. The Board later changed the statute so PERB could select investment options not subject to the procurement process. The statute 19-3-2133, MCA created the EIAC. Their role is to advise the Board on the administration and operation of the Deferred Compensation Plan and the PERS-Defined Contribution Retirement Plan. Investment options are reviewed on an annual basis by EIAC, and then recommendations are brought to the Board, and then the Board approves or denies these recommendations. Ms. Samson recommends the Board have EIAC involved in this process. In March 2002 the Board looked into the Deferred Compensation Plan. On instruction from the Board, MPERA and EIAC with the assistance of their consultant started working with the investment options that were in the 457 plan. These options were then proposed to the Board, structuring them with the determinations made in 2002. These were implemented in 2003. On an annual basis, the Board reviews their investment policy statements to determine what funds can be used in the plan. Only when an investment option does not meet the Board's criteria can it be discontinued. If to discontinue an option that does meet the criteria, it is in violation of Board rules and policies. Next board meeting, the advantages and disadvantages of investment options consolidation will be discussed. These two meetings discussion should result in future Board directives that provide consistency and meet the Board's fiduciary responsibilities.

PERS-DCRP Administrative Account Reserve Barbara Quinn

Creating a reserve account for DCRP administrative expenses has been discussed in the past. The PERS-DCRP was implemented July 1, 2002. MPERA received a loan for those initial startup costs which was paid off last legislative session. Because there were limited funds available, MPERA had to keep the costs of the new plan to a minimum. Five years and minimal history has made it difficult to determine a pattern for prediction future activity. The Board needs to consider future costs and revenues and consequences if the reserve was to fall below the established standard. Some things to look into are database reengineering, imaging system implantation, and offering more information/services through the web meet member demands. MPERA also needs to offer ongoing investment training DCRP members. Mr. Terry Smith voiced concern about the unfunded liability. Mr. Smith asked if the PERS-DCRP administrative account could be used to pay down the unfunded liability. Mr. Smith stated that the fund was a large cash flow, and the Board needs to look into putting this money to the most productive use for the DC participants, by using this money to pay down the unfunded liability is to the benefit of all participants.

Verbal Update – Board Legislative Committee, February 1 Robert Griffith

Mr. Griffith stated that all members were at the meeting so then was no need to report. Mr. Klawon complimented Mr. Griffith on the fluidity of the meeting.

MPERA Staffing – Roxanne Minnehan

Accounting Clerk – Veena Baireddygar started Wednesday, 2/13/2008

Veena has a good educational background and some computer skills.

DC Plans Pay/Benefits Tech -

Interviews have been conducted and completed Wednesday, 2/13/2008.

Auditor -

A letter of acceptance has not been mailed at this time. MPERA does have an applicant of interest.

DC Accountant-

MPERA will be recruiting for this position due to a recent resignation.

Administrative Support, Member Services – New position

We are finalizing the job profile for this position.

Verbal Update – Legislative Audit Committee, January 23 – Roxanne Minnehan

The Legislative Audit Committee met Wednesday, January 23, 2008. The auditors presented their report. The auditors did not have any recommendations for MPERA.

Verbal Update - Board of Investments – John Paull

Mr. John Paull attended the Board of Investment meeting Tuesday, February 11, 2008. Mr. Paull stated that the rates of return change regularly, he read the returns from the report given by RV Kuhns. STIP has provided a competitive yield, net of fees. State participants are required to participate. RV Kuhns compared Montana STIP program with eight different funds. The average of the eight cash funds is 5.33%. The Montana STIP program was 5.55%. The returns for the PERS last quarter -1.04%, six months 1.49%, one year 8.72%, three years 9.71% and five years 12.07%. MPORS returns are for the first quarter -1.07%, last six months 1.41%, one year 8.62%, three years 9.63% and five years 11.94%. FURS returns for the first quarter -1.05%, last six months 1.44%, one year 8.63%, three years 9.63% and five years 11.96%. The Montana Domestic Equity Pool asset, allocation and performance was, first quarter -3.14%, last six months -1.54%, one year 5.46%, three years 8.07% and five years 12.35%. The Montana International Equity Composite was for the first quarter -2.06%, six months 1.58%, one year 15.02%, three years 18.92% and five years 22.11%. The Real Estate Composite is for the first quarter 1.43%, six months 3.52%, one year, three year and five years are not available. The Retirement Funds Bond Pool for the first quarter 2.50%, six months 5.17%, one year 6.76%, three years 5.18% and five

years 5.95%. The Short Term Investment Pool first quarter returns are 1.33%, six months 2.75%, one year 5.55%, three year 4.67% and five years 3.33%. The Montana Private Equity Pool's returns are first quarter 0.90%, six months 7.38%, one year 25.33% three years 18.92% and five years 21.84%.

Verbal Update Litigation Update – Melanie Symons, Scott Miller

Mr. Miller updated the Board on the MPPA's legal reply. Mr. Miller had the scheduling conference moved from February 22, 2008 to March 7, 2008. MPPA replied to Mr. Miller's brief. MPPA's argument confuses the existence of a privacy interests with the merits of disclosing information for a particular purpose despite the privacy interest.

Ms. Symons informed the Board that an article in the paper stated that the Supreme Court is behind so may not get an answer on the Mang lawsuit very soon.

Ms. Symons has a scheduling conference on February 22, 2008 in regards to the Cal Wiley on whether Mr. Wiley can elect GABA. The scheduling meeting is to determine when to have oral arguments on the briefs. The order allows participation by phone,, Mr. Wiley has not requested this.

Informational Summary Reports

City of Poplar's resolution to join MPORS.
MPPA vs PERB Legal Briefs
BOI Pool Expenses
The Interim, February 2008

Future Board Meetings

March 13th, 2008

Future SAVA Meeting

February 22nd, 2008

Open Meeting adjourned approximately 11:15 AM

The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting will be closed.

CLOSED MEETING



CLOSED MEETING
PUBLIC EMPLOYEES' RETIREMENT BOARD

February 14, 2008

The closed meeting was called to order by President Jay Klawon, Thursday, February 14, 2008. Roll call was taken with six Board members being present. Mr. John Nielsen was excused. Board members and staff present were:

Jay Klawon, President
John Paull, Vice President
Robert Griffith, Member
Troy McGee, Member
Ray Peck, Member
Terry Smith, Member
Melanie Symons, Legal Counsel
Scott Miller, Legal Counsel
Roxanne Minnehan, Executive Director
Kim Flatow, Member Service Bureau Chief
Ursula Hatfield, Executive Assistant

MINUTES OF CLOSED MEETING

The minutes of the regular closed meeting of December 13, 2007 and January 10, 2008 were presented.

Motion: Mr. Robert Griffith moved to approve the minutes of the December 13, 2007 and January 10, 2008 PERB Regular Closed Meeting.

Second: Terry Smith

Vote: 5/0 with Mr. Troy McGee being out of the room

Contested Cases

Informal Reconsideration – PERS, Service Credit, GB Kim Flatow

Ms. Flatow presented to the Board the appeal of GB's previous Board decision. GB is willing to pay interest from 2000 to current date. The Board previously denied GB's request. The cost statement from February 2000 is invalid. The additional payment of \$36.81 can be applied to the next cost statement or GB may receive a refund of the funds. A cost statement from over seven years ago cannot be utilized at this time.

Motion: Mr. Robert Griffith moved to uphold the previous Board decision and deny the service request for GB.

Second: Terry Smith

Vote: 6/0

Informal Reconsideration – PERS, Disability Cancellation Appeal, MB Katie Linjatje

The following is a presentation of MB's attorney Ms. J Scheinz. Prior to being diagnosed with a heart problem and mini strokes, MB was incredibly active. MB has been a productive member of the community. Section 19-3-1015, MCA and Administrative Rule 2-43-514(1) give the Board the authority to cancel a member's disability benefits "if the Board determines that the medical information does not demonstrate a continuing disability." The Board has been also given the authority to have the member under go an independent medical exam, which was so in this case. The criteria for the Boards' determination as to whether or not available medical information does in fact demonstrate a continuing disability appears to be limited to those sighted code sections and administrative rule; those essentially provide no criteria what so ever, the Board is with out guidance to what constitutes a continuing disability. Ms. Scheinz gave a detailed account of MB's medical history, including doctors' observations.

Mr. Peck asked about MB's treadmill stress test (TST), that he was able to exercise up to 13 minutes, as reported in the report given to the Board. Ms. Scheinz explained that MB is able to exercise, but could have a massive stroke. MB explained after being sworn in by Mr. Jay Klawon, Board President and Notary, that the time MB had the TST he was in good shape, and his recent examination he did not have a TST. Mr. Peck stated that the only documentation that the Board has that would be positive for his appeal is current doctor; the other doctors state that MB would not be prohibited from doing his former job duties. Ms. Scheinz is stating that the diagnosis is what she is talking about, this information has not changed MB has been diagnosed the same by each doctor. Mr. Peck brought up that his current doctor had "the suspicion" that MB has mini strokes. Ms. Scheinz stated that his previous doctor diagnosed MB with mini strokes and this is where his current doctor is getting her information. Mr. Peck asked to see the ALJ report. Ms. Symons brought up to the Board that they are not doctors therefore documentation is to go to the medical staff on contract. Ms. Symons confirmed that the proper channels were followed.

Motion: Mr. Peck moved to postpone until the March Board meeting to provide an opportunity for the Board members to review documentation.

Second: Troy McGee

Vote: 6/0

Mr. Peck asked if the epilepsy tests would be available in the documentation. Ms. Scheinz said that she would make this information available to the Board. Ms. Scheinz would like the opportunity to present the new information or answer any question that the Board may have after reviewing these documents. Ms. Symons noted that the Board would be waiving their 21 day submittal rule to get this information for the March meeting. Mr. Miller expressed concern that the Board would not be able to make a decision within six months in accordance to administrative rule. March 13, 2008 marks the six months of MB's original ruling. Ms. Scheinz and MB waiving this right to provide enough time for the Board to review this documentation.

Motion: Mr. Peck moved to reconsider the previous motion of tabling until the March Board Meeting.

Second: Terry Smith

Vote: 6/0

Motion: Mr. Peck moved to postpone until the April Board meeting pending receipt of a report from Dr. Reed and the results of the epilepsy test from Dr. Davis.

Second: Troy McGee

Vote: 6/0

Informal Reconsideration – VFCA, Retirement Benefits Recalculation Scott Miller

Mr. Timothy Dick, legal counsel for JF, TW, JC, and DC, Retired Volunteer Firefighters addressed the Board. Mr. John Paull recused himself and left the room due to a conflict of interest. Mr. Dick states that 19-17-401(2)(a) MCA "For a full pension benefit, a member must have completed 20 years of service and must have attained 55 years of age, but need not be an active member of a fire company when 55 years of age is reached." In 19-17-404(1) MCA, "Each eligible member must receive a pension or disability benefit as provided in this section." In 19-17-404(2)(c) "The full pension benefit of a member who continued to be an active member after completing 20 years of service must be increased by \$7.50 a month for each additional year of active service the member completed after 20 years of service, up to 30 total years of service." Mr. Dick stated that the Board can not change the wording of these statutes and must follow these statutes. Mr. Dick believes his clients meet this definition and; therefore, should be compensated. Mr. Dick would like to have this case certified as a class action, so to assist any other firefighter in this situation. Mr. Dick stated that there was a draft with retroactive language but that language was removed. This can be confirmed by Sen. Gebhardt. Mr. Dick asked for information on firefighters in this similar situation. Mr. Miller explained due to privacy issues MPERA is unable to give Mr. Dick this information.

Mr. Miller rebutted that when a legislature removes a retroactive clause it is no longer intended to be retroactive. Mr. Miller does not know if a class action case is possible or how to get one started. On the statute of limitations, the citation made by Mr. Dick, the case presented if there are two statutes then you go by the longer. In this case, the argument is that there are two statute of

limitations in this case; Mr. Miller states there is only one. There is no contract in this case, these are volunteers. They do not have an employment agreement. After they retired, benefits for members who later retired were increased. Mr. Miller again states there is not a contract so the statutes of limitations do not apply. In this case the legislature changed the statute to create an additional liability, increasing the benefits members that had yet to retire; this bill came into effect April 25, 2005. The impact of this bill would have been felt the end of May 2005, if this was to be applied to current retirees. Mr. Dick filed his claim on behalf of his clients June 27, 2007; two years after these gentlemen would have known they did not receive these benefits. Mr. Miller explained the language of the statute; a member shall meet these requirements. 19-17-102(11) MCA again states a "Member" means a volunteer firefighter who has service credit under this chapter. 19-17-102(19) "Volunteer firefighter" means a person who is an active member of an eligible fire company and is not compensated for services as a firefighter." Under this statute a "member" has to be an "active" volunteer firefighter, in order to receive benefits, these gentlemen are retirees. Mr. Peck asked Mr. Miller if he had a recommendation of forgoing the second step and suggested that this not be done. Mr. Peck stated that he would consult Sen. Gebhardt. Mr. Miller as legal counsel to the Board recommended the Board members not make any contact with Sen. Gebhardt. Ms. Symons agreed.

Motion: Mr. Robert Griffith moved to uphold staff's determination denying the VFCA retirees' claims because those claims are barred by the two year statute of limitations and because the changes to section 19-17-404, MCA, only apply to those members who were not receiving retirement benefits as of the effective dates of the amendments to that section. I further move that the Board uphold staff's decision to refrain from bypassing the administrative hearing process and proceed directly to District Court.

Second: Ray Peck

Vote: 5/0

Informal Consideration-PERS, Service Purchase, TH Kim Flatow

TH requests to purchase employment with limited documentation of employment with Montana State University (MSU). TH provided documentation from MSU regarding his employment in 1974-1978. TH supplied a summary of wages reported to the social security administration for the dates involved. MPERA provided TH with the cost to purchase part of the service and he would like to purchase the missing time. Staff recommends the Board allow TH to pay, in full the service involved.

Motion: Mr. Robert Griffith moved to uphold staff recommendation to grant the service purchase request for TH.

Second:

Vote: 6/0

Retirement Report

- Disability Claims/Reviews: Katie Linjatie

- LB 56 years old; has 26 years, ten months with PERS. LB is diagnosed with transitional cell carcinoma of the bladder. Dr. Jordan reviewed LB's file on February 03, 2008. Dr. Bateen reviewed the file on December 7, 2007, LB was referencing Post Traumatic Stress Disorder (PTSD). Dr. Bateen stated there was not sufficient documentation to warrant PTSD. LB has not had additional recurrence of his bladder cancer. According to Dr. Jordan and Dr. Bateen, LB is able to work. The disability examiner concurs.

Motion: Mr. Robert Griffith moved to uphold the denial for LB request for disability.

Second: Troy McGee

Vote: 5/0 Jay Klawon abstained as he was out of the room during the discussion.

- SF 57 years old; has 12 years, 2 months with SRS. SF was diagnosed with coronary artery disease, post triple bypass on February 18, 2000, seizures of unknown etiology (cause). Prognosis is stable. Dr. Jordan reviewed the file and SF is not disabled at this time. SF passed his work evaluation, but was sent by his employer to his physician for a physical evaluation. The disability examiner recommends denying disability pending additional treatment, physical conditioning and medical records.

Motion: Mr. Troy McGee moved to deny the request for disability of SF.

Second: Robert Griffith

Vote: 6/0

- GP 62 years old; has 6 years, 7 months with SRS. GP was diagnosed with post right rotator cuff surgery. GP's prognosis is good for pain control. Dr. McEvoy reviewed GP's file and states that he is no longer able to sheriff work. Dr. McEvoy and Ms. Linjatie are recommending approval of disability with out annual review.

Motion: Mr. John Paull moved to approve the request for disability with out annual review for GP.

Second: Terry Smith

Vote: 6/0

- SQ is 50 years old; with 19 years, .39 months with PERS. SQ has been on disability with annual review since October 2006. SQ has been diagnosed with

pain radiating down leg, permanent nerve damage causing pain in lower back and leg. SQ's prognosis is fair. Dr. Jordan reviewed SQ's file and states she is unable to work. Ms. Linjatie recommends discontinuing reviews.

Motion: Mr. Robert Griffith moved to approve the request for continued disability without annual review for SQ.

Second: John Paull

Vote: 6/0

- RK is 47 years old; with 27 years, 5 months with PERS. RK's diagnosis is sleep apnea, asthma, and swelling of the ankles. RK's prognosis is not good. Dr. Jordan reviewed RK's file and states she is unable to perform work related duties. He further recommends review in one year to see if her status changes.

Motion: Mr. John Paull moved to approve request for disability with review for RK.

Second: Terry Smith

Vote: 6/0

- Finalized Service Retirements Disability Benefit Payments Kim Flatow

Motion: Mr. Robert Griffith moved to approve the Finalized Service Retirement/Disability Benefit Payments.

Second: John Paull

Vote: 6/0

Contested Case/Litigation Updates – Melanie Symons/Scott Miller

Ms. Symons received the letter from KE withdrawing her request for contested case.

Mr. Miller stated that JK requested a stipulation dismissal of his appeal with prejudice. Mr. Miller is expecting to see JK in the future. Mr. Miller is suggesting the Board keep their documentation.

Reconvene Open Meeting

Action on Closed Meeting Issues

The Board upholds recommendations on Contested Case A.

Motion: Mr. Robert Griffith moved to uphold the previous Board decision and deny the service request for GB.

Second: Terry Smith

Vote: 6/0

The Board upholds recommendations on Contested Case C.

Motion: Mr. Robert Griffith moved to uphold staff's determination denying the VFCA retirees' claims because those claims are barred by the two year statute of limitations and because the changes to section 19-17-404, MCA, only apply to those members who were not receiving retirement benefits as of the effective dates of the amendments to that section. I further move that the Board uphold staff's decision to refrain from bypassing the administrative hearing process and proceed directly to District Court.

Second: Ray Peck

Vote: 5/0

ADJOURNMENT

There being no further business before the Board, Robert Griffith moved to adjourn the meeting, Terry Smith second this motion. All voted aye, next regular meeting will be March 13, 2008.

Meeting closed at approximately 3:00.